

**For:** State Offices and Service Centers

**Review of CRP Noncompliance Procedures**

**Approved by:** Deputy Administrator, Farm Programs



**1 Overview**

**A**

**Background**

When a violation of terms and conditions of a CRP contract are discovered, COC must take certain actions regardless of the following:

- what the violation is
- when it occurred.

A review of several recent cases submitted to DAFP and related COC minutes indicates that some required actions are not being conducted and/or some COC's are acting outside their authority when handling CRP contract violations.

**B**

**Purpose**

This notice provides a review of:

- noncompliance procedure
- submitting requests for waivers
- COC required actions and authorities about CRP contract violations.

**Disposal Date**

January 1, 2000

**Distribution**

State Offices; State Offices relay to Service Centers and NRCS State Offices

## 2 Noncompliance

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### A

#### Examples of Noncompliance

Examples of noncompliance include, but are not limited to:

- the approved cover, temporary or permanent, has been hayed or grazed
- commercial use has been made of the approved cover
- an unauthorized crop, such as an agricultural commodity, has been planted on acreage under CRP-1
- trees have been harvested or sold, or other commercial use has been made of trees, including the shearing or shaping of trees for Christmas trees
- pine straw has been harvested
- producer conducted an activity on CRP acres without authorization, such as:
  - unauthorized treatment during the primary nesting season, such as mowing, spraying, or burning
  - using CRP acreage as a parking lot or campground
  - applying sludge or animal byproducts
- constructing a road, house, or other building on CRP acreage
- using the acreage to park automobiles, tractors, or other equipment
- stacking and/or storing hay on CRP acreage
- the State or local noxious weed commission determines that the participant is violating noxious weed provisions and notifies COC that the noxious weeds are not controlled on the designated acres
- other undesirable weeds, plants, insects, or pests, as determined by COC, are not controlled on the designated acreage

**Exception:** This does not apply to CRP-1's accepted before November 28, 1990, unless undesirable weeds or plants adversely impact the establishment or maintenance of the approved cover.

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## Notice CRP-351

### 2 Noncompliance (Continued)

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#### A

#### Examples of Noncompliance (Continued)

- the approved cover has not been maintained according to the conservation plan
  - a satisfactory cover or a required practice has not been established or re-established within the time prescribed
  - the producer has not complied with landlord and tenant provisions
  - there has been a scheme or device that tends to defeat the program
  - a false claim has been filed
  - a false certification has been filed
  - a violation has occurred according to 2-CRP, paragraph 341.
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### 3 COC Action and Authority

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#### A

#### COC Determination

When a contract violation is discovered, COC must determine whether the participant made a good faith effort to comply with the terms and conditions of the contract. COC must make this determination regardless of the violation or when the violation occurred. The contract violation, COC determination, basis for the determination, and supporting documentation must be clearly documented in the COC minutes.

If COC determines that the participant made a good faith effort to comply, then a payment reduction must be assessed. If COC determines that the participant did not make a good faith effort to comply, COC must terminate the acreage in violation and request a refund of all payments made plus interest and liquidated damages for the acreage terminated.

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#### B

#### Joint and Several Liability

All signatories to CRP-1 are jointly and severally liable for any payment reduction or refunds that may become due to CCC because of a contract violation.

Beginning with signup 13, CRP participants with zero interest in the annual rental payment are not liable for contract compliance.

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### 3 COC Action and Authority (Continued)

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#### C

#### **Good Faith Effort Determined**

If COC determines that the participant made a good faith effort to comply with the terms and conditions of CRP-1 and the contract violation occurred for reasons other than a practice failing because of natural disaster or through no fault of the participant, COC shall:

- assess a payment reduction on the affected acres not to exceed the annual rental payments for **all CRP-1's for the farm** according to 2-CRP, paragraph 340
- inform each participant **in writing** of **all** of the following:
  - reason for the violation
  - COC determined a good faith effort was made to comply
  - the amount of payment reduction to be refunded
  - how the reduction amount was calculated
  - when the refund amount is due
  - all applicable offsets that may be imposed
  - subsequent violations may result in termination of CRP-1 with refunds
  - applicable review rights, including appeal, reconsideration, and/or mediation.

When COC determines the participant made a good faith effort to comply with the terms and conditions of CRP-1:

- the acres in violation are **not** terminated
- refunds of **all payments plus interest** shall not be required
- liquidated damages do **not** apply.

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### 3 COC Action and Authority (Continued)

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#### D

#### Good Faith Effort Not Determined

If COC determines that the participant did not make a good faith effort to comply with the terms and conditions of CRP-1 and:

- the participant's request for termination of part of the land under CRP-1 was not approved, COC shall terminate **all** land under CRP-1

**Example:** Participant has 100 acres enrolled in CRP. Participant requests to terminate part of the acres under CRP-1 to return to crop production. The request is not approved. Producer plants part of the acres under CRP-1 to corn. COC **shall** terminate all land (100 acres) under CRP-1.

- there was no request to terminate part of the land under CRP-1, COC shall terminate only land in violation.

When COC determines the participant did not make a good faith effort to comply with the terms and conditions of CRP-1, COC shall inform each participant **in writing** of **all** of the following:

- reason for the violation
- COC determined there was not a good faith effort to comply
- the amount to be refunded, including interest and liquidated damages
- how the refund amount was calculated
- when the refund amount is due
- all applicable offsets that may be imposed
- future CRP payments on the acreage terminated will not be paid

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### 3 COC Action and Authority (Continued)

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#### D

##### Good Faith Effort Not Determined (Continued)

- terms and conditions of CRP-1 no longer apply to the acreage terminated
- conservation compliance provisions apply
- applicable review rights, including appeal, reconsideration, and/or mediation.

In addition, when only part of the acreage under CRP-1 is terminated, COC shall provide participants 60 calendar days to obtain all signatures on revised CRP-1. If all signatures are not obtained within 60 calendar days from notification, COC shall terminate revised CRP-1.

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#### E

##### Waiver of Refunds

COC's do not have authority to waive any payment reduction or refund.

COC's may waive up to 50 percent of the assessed liquidated damages except when COC or STC determines there was not a good faith effort to comply with the terms and conditions of CRP-1.

**Important:** Liquidated damages shall **not** be waived when COC or STC determines there was not a good faith effort to comply with the terms and conditions of CRP-1. See 2-CRP, paragraph 291.

COC shall:

- **not** request a waiver or reduction of refunds unless the request is received from participants, in writing

**Note:** It is the participant's responsibility to request a waiver or reduction of refunds.

- submit requests for waiver or reduction of refunds to STC only if COC determines that the action is justified based on documented and verifiable facts of the individual case.

**Note:** Each case is unique. Determinations shall be made on a case-by-case basis based on the facts of the individual case.

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#### 4 Misaction/Misinformation

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##### A

##### **Misaction/ Misinformation Not Applicable**

Benefits may only be extended under the misaction/misinformation provision when there has been detrimental producer reliance upon action or advice of a representative that results in the loss of program benefits for which the producer would have otherwise been eligible. See 7-CP, paragraph 52.

Misaction/misinformation is not applicable when:

- producer failed to take action required, unless this failure can be directly attributed to the misaction or misinformation of an authorized agency representative
  - 1 of the following applies to the authorized representative:
    - failed to warn a producer of the consequences of an action
    - did not tell the producer of a provision that may have been helpful
  - producer knew, or had sufficient reason to know, that the action or advice upon which the producer relied was improper or erroneous
  - producer relied upon his or her own misunderstanding or misinterpretation of program provisions, notices, or advice.
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## Notice CRP-351

### 5 Action

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#### **A Service Center Action**

Service Centers shall:

- review this notice, 2-CRP, paragraphs 288 and 340, and 7-CP, Part 3 with COC at the next COC meeting
  - document the review of this notice in the COC meeting minutes.
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#### **B State Office Action**

State Offices shall:

- ensure that COC's and Service Centers understand and follow procedure about violations of CRP-1 according to 2-CRP
  - review this notice, 2-CRP, paragraphs 288 and 340, and 7-CP, Part 3 with STC at the next STC meeting
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#### **C COC Action**

COC shall:

- review this notice, 2-CRP, paragraphs 288 and 340, and 7-CP, Part 3 with COC at the next COC meeting
  - handle contract violations according to 2-CRP.
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